

The Special Administrative Law Judge found that claimant, a dog handler for the Hamilton County Sheriff Department on the date of injury, was bitten while trying to separate the department's German shepherd from his own and that the resulting injury arose out of and in the course of claimant's employment. The Judge believed claimant's description of the incident.

The Sheriff Department required claimant to kennel the department's German shepherd. Claimant testified that the dog twice escaped from the kennel on December 15, 1997. After the second escape, claimant took the dog into his house so he could repair the fence. Claimant testified that his own German shepherd was accidentally let into the house and that he was bitten by the department's dog as he tried to keep the dogs apart.

The Special Administrative Law Judge found claimant's testimony persuasive and granted the request for medical expense. The Judge had the enviable opportunity to personally observe claimant's demeanor. In this instance, the Appeals Board gives some deference to the Judge's assessment of claimant's credibility. Therefore, the Appeals Board also finds that claimant was bitten when he tried to separate the dogs and that the injury arose out of and in the course of employment. The injury occurred as the result of an employment risk directly related to kenneling the department's dog.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order dated April 16, 1998, entered by Special Administrative Law Judge William F. Morrissey should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of June 1998.

BOARD MEMBER

c: Robert A. Anderson, Ellinwood, KS
James M. McVay, Great Bend, KS
William F. Morrissey, Special Administrative Law Judge
Philip S. Harness, Director